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7
8 **BEFORE THE**
9 **STATE BOARD OF OPTOMETRY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Amended Accusation
12 Against:

Case No. CC 2012-143

13 **DANIEL HYUNMIN CHO**
14 **2794 El Camino Real, Suite 100**
15 **Santa Clara, CA 95051**

AMENDED ACCUSATION

15 **Certificate of Registration to Practice**
16 **Optometry No. 14585**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Mona Maggio (Complainant) brings this Amended Accusation solely in her official
21 capacity as the Executive Officer of the State Board of Optometry, Department of Consumer
22 Affairs.

23 2. On or about February 19, 2013, the State Board of Optometry issued Certificate of
24 Registration to Practice Optometry Number 14585 to Daniel Hyunmin Cho (Respondent). The
25 Certificate of Registration to Practice Optometry will expire on June 30, 2015, unless renewed.

26 **JURISDICTION AND STATUTORY PROVISIONS**

27 3. This Amended Accusation is brought before the State Board of Optometry (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code (Code) unless otherwise indicated.

2 4. Section 118, subdivision (b), of the Code provides that the expiration of a license
3 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
4 within which the license may be renewed, restored, reissued or reinstated.

5 5. Section 3110 of the Code states:

6 "The board may take action against any licensee who is charged with unprofessional
7 conduct, and may deny an application for a license if the applicant has committed unprofessional
8 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
9 limited to, the following:

10 "(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the
11 violation of, or conspiring to violate any provision of this chapter or any of the rules and
12 regulations adopted by the board pursuant to this chapter.

13 ...

14 "(e) The commission of fraud, misrepresentation, or any act involving dishonesty or
15 corruption, that is substantially related to the qualifications, functions, or duties of an optometrist.

16 "(f) Any action or conduct that would have warranted the denial of a license.

17 ...

18 "(s) The practice of optometry without a valid, unrevoked, unexpired license.

19 ..."

20 6. Section 3040 of the Code states:

21 "It is unlawful for a person to engage in the practice of optometry or to display a sign or in
22 any other way to advertise or hold himself or herself out as an optometrist without having first
23 obtained a certificate of registration from the board under the provisions of this chapter or under
24 the provisions of any former act relating to the practice of optometry. The practice of optometry
25 includes the performing or controlling of any acts set forth in Section 3041.

26 "In any prosecution for a violation of this section, the use of test cards, test lenses, or of trial
27 frames is prima facie evidence of the practice of optometry."

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1 COST RECOVERY

2 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 FIRST CAUSE FOR DISCIPLINE

7 (UNLICENSED PRACTICE OF OPTOMETRY)

8 8. Respondent is subject to disciplinary action under sections 3110(s) and 3040 in that
9 he practiced optometry without a valid, unrevoked, unexpired license. The circumstances are as
10 follows:

11 9. Respondent submitted his Application for Licensure as an Optometrist to the Board
12 on or about May 31, 2012. On or about February 19, 2013, Respondent was granted his
13 Certificate of Registration to Practice Optometry No. 14585. On or about February 11 and
14 February 18, 2013, Respondent practiced optometry at 20/20 Eye Club Optometry in Santa Clara,
15 California without a valid, unrevoked, unexpired license. Respondent also used the prescription
16 pad of a licensed optometrist at the facility to write prescriptions, and submit claims to VSP
17 (Vision Service Plan), under the licensed optometrist's name.

18 SECOND CAUSE FOR DISCIPLINE

19 (FRAUD, MISREPRESENTATION OR DISHONESTY)

20 10. Respondent is subject to disciplinary action under section 3110(e) in that he
21 committed fraud, misrepresentation or dishonesty. The circumstances are as follows:

22 11. On or about February 11 and February 18, 2013, Respondent held himself out as a
23 licensed optometrist, and practiced optometry at 20/20 Eye Club Optometry in Santa Clara,
24 California without first having obtained a certificate of registration from the board. Respondent
25 also used the prescription pad of a licensed optometrist at the facility to write prescriptions, and
26 submit claims to VSP (Vision Service Plan), under the licensed optometrist's name.

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THIRD CAUSE FOR DISCIPLINE

(UNPROFESSIONAL CONDUCT)


12. Respondent is subject to disciplinary action under sections 3110 and 3110(f) in that he acted unprofessionally, as alleged above in paragraphs 9 through 11.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the State Board of Optometry issue a decision:

1. Revoking or suspending Certificate of Registration to Practice Optometry Number 14585, issued to Daniel Hyunmin Cho;
2. Ordering Daniel Hyunmin Cho to pay the State Board of Optometry the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: September 24, 2014


MONA MAGGIO
Executive Officer
State Board of Optometry
Department of Consumer Affairs
State of California
Complainant

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